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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF MARICOPA**

CV2006-011089

THE STATE OF ARIZONA ex rel. TERRY  
GODDARD, the Attorney General, and THE  
CIVIL RIGHTS DIVISION OF THE  
ARIZONA DEPARTMENT OF LAW,

Plaintiff,

vs.

BANNON SPRINGS RANCH CHRISTIAN  
HEALTH CARE, INC., an Arizona  
corporation; KENNETH ANDERSON,  
surviving trustee under THE KENNETH  
AND MILDRED ANDERSON  
REVOCABLE TRUST, DATED  
SEPTEMBER 30, 1991, formerly dba  
BANNON SPRINGS RANCH CHRISTIAN  
HEALTH CARE, INC.;

No.

**COMPLAINT FOR DAMAGES  
AND INJUNCTIVE RELIEF**

(Nonclassified Civil)

1 THE KENNETH AND MILDRED  
2 ANDERSON REVOCABLE TRUST,  
3 DATED SEPTEMBER 30, 1991, formerly  
4 dba BANNON SPRINGS RANCH  
5 CHRISTIAN HEALTH CARE, INC., ABC  
6 Corporation,

7 Defendants.

8 Plaintiff, the State of Arizona ex rel. Terry Goddard, the Attorney General, and  
9 the Civil Rights Division of the Arizona Department of Law (collectively the "State"),  
10 for its Complaint, alleges as follows:

### 11 INTRODUCTION

12 This is an action brought under the Arizona Civil Rights Act ("ACRA"), A.R.S. §  
13 41-1401, et seq., to correct unlawful employment practices related to race and  
14 retaliation, to provide appropriate relief to aggrieved persons, and to vindicate the  
15 public interest. Specifically, the State brings this matter to redress the injury sustained  
16 by Kim Clark ("Ms. Clark") who was unlawfully discriminated against by Defendants.

### 17 JURISDICTION AND VENUE

- 18 1. This court has jurisdiction of this matter pursuant to A.R.S. § 41-1481(D).
- 19 2. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).

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4. The State brings this action on its own behalf and on behalf of Ms. Clark, an aggrieved person, who is Native American.

6. At all relevant times, and, upon information and belief, Bannon Springs was owned by KENNETH ANDERSON, surviving trustee under THE KENNETH AND MILDRED ANDERSON REVOCABLE TRUST, DATED SEPTEMBER 30, 1991, formerly dba BANNON SPRINGS RANCH CHRISTIAN HEALTH CARE, INC., THE KENNETH AND MILDRED ANDERSON REVOCABLE TRUST, DATED SEPTEMBER 30, 1991, formerly dba BANNON SPRINGS RANCH CHRISTIAN HEALTH CARE, INC., or TBCS ENTERPRISES, LLC.

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8. At all relevant times, Bannion Springs employed Ms. Clark within the meaning of A.R.S. § 41-1461(4).

9. Defendants are legally responsible for the acts or omissions giving rise to this cause of action and are legally and proximately responsible for damages as alleged pursuant to A.R.S. § 41-1481.

## BACKGROUND

10. In or around January 2005 Ms. Clark began working for Bannon Springs.

11. At all relevant times, Ms. Clark's job performance was satisfactory.

12. In or around February 2005, a Bannon Springs co-worker told Ms. Clark that Ms. Clark was the co-worker's "nigger" and that the co-worker could tell Ms. Clark what to do.

13. At all relevant times, Audrey Wilson ("Ms. Wilson") was Ms. Clark's supervisor.

14. On or about February 15, 2005, Ms. Clark complained to Ms. Wilson about the co-worker's remark.

15. Upon information and belief, Ms. Wilson did not conduct any investigation regarding Ms. Clark's complaint.

16. Approximately three months later, on or about May 11, 2005, Ms. Clark raised concerns to a Bannon Springs cook about the procedures the cook was following.

1 The cook told Ms. Clark that there were "too many bosses and not enough Indians."

2 The cook referred to Ms. Clark as an Indian.

3 17. On or about May 11, 2005 Ms. Clark complained to Ms. Wilson about the  
4 cook's remarks.

5 18. Ms. Wilson obtained written statements from both the cook who made the  
6 remarks and a witness.

7 19. Ms. Wilson did not ask Ms. Clark to provide a written statement regarding  
8 her complaint.

9 20. On or about June 22, 2005 Bannon Springs terminated Ms. Clark.

10 21. Bannon Springs hired Ms. Clark's replacement prior to Ms. Clark's  
11 termination.

12 22. At all relevant times, Bannon Springs had a policy that employees would  
13 not be terminated unless they were given reprimands including at least one written  
14 reprimand.

15 23. At the time of Ms. Clark's termination, she had not received any written  
16 reprimands.

17 24. Upon information and belief, a White Bannon Springs employee who was a  
18 cook had an unexcused absence and was not terminated.

19 25. At the time of Ms. Clark's termination, Bannon Springs did not have a  
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1 written policy against discrimination nor did it have a written policy handbook.

2 26. On or about July 25, 2005, Ms. Clark timely filed a complaint of  
3 employment discrimination with the State's Compliance Section in which she alleged  
4 she had been the victim of race discrimination and retaliation.

5 27. At the conclusion of its investigation, the State determined that there is  
6 reasonable cause to believe that Defendants discriminated against Ms. Clark because of  
7 her race, Native American, in violation of A.R.S. § 41-1463(B)(1) and by retaliating  
8 against her in violation of A.R.S. § 41-1464(A).

9 28. The State has or shall attempt to eliminate the unlawful practices alleged in  
10 the Reasonable Cause Determination and to effect voluntary compliance with the  
11 ACRA through conciliation pursuant to A.R.S. § 41-1481(D) for a period of at least 30  
12 days.

13 29. The State issued its Cause Finding on or about June 23, 2006, and since  
14 that time, the State, Ms. Clark, and Defendants have not entered into a Conciliation  
15 Agreement.

16 **STATEMENT OF CLAIM**

17 **Count One**

18 **[Discrimination in Violation of the Arizona Civil Rights Act, A.R.S. § 41-  
19 1463(B)(1)]**

20 30. The State re-alleges and incorporates by reference the allegations contained  
in paragraphs 1 through 29 of this Complaint.



31. Under A.R.S. § 41-1463(B)(1), it is an unlawful employment practice for an employer to discriminate against any individual with respect to their compensation, terms, conditions, or privileges of employment because of such individual's race.

32. Defendants unlawfully discriminated against Ms. Clark in violation of A.R.S. § 41-1463(B)(1).

33. As a result of Defendants' unlawful discrimination, Ms. Clark suffered monetary damages for which she should be compensated in an amount to be determined at trial pursuant to A.R.S. § 41-1481(G).

34. Further, as a result of Defendants' unlawful discrimination, the State is also entitled to injunctive relief under A.R.S. § 41-1481(G).

**Count Two**  
**[Discrimination in Violation of the Arizona Civil Rights Act, A.R.S. § 41-1464(A)]**

35. The State re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 34 of this Complaint.

36. Under A.R.S. § 41-1464(A), it is an unlawful employment practice for an employer to discriminate against an employee because the employee has opposed any practice which is an unlawful employment practice under the ACRA.

37. Ms. Clark opposed conduct which she reasonably perceived to be race discrimination, prohibited by A.R.S. § 41-1463(B)(1), by complaining about the

1 conduct to Ms. Wilson.

2 38. Defendants unlawfully discriminated against Ms. Clark in violation of  
3 A.R.S. § 41-1464(A) by terminating her for opposing her co-worker's conduct.

4 39. As a result of Defendants' unlawful discrimination, Ms. Clark suffered  
5 monetary damages for which she should be compensated in an amount to be determined  
6 at trial pursuant to A.R.S. § 41-1481(G).

7 40. Further, as a result of Defendants' unlawful retaliation, the State is entitled  
8 to injunctive relief under A.R.S. § 41-1481(G).

9 **PRAYER FOR RELIEF**

10 WHEREFORE, the State requests that this Court:

11 1. Enter a judgment on behalf of the State, finding that Defendants unlawfully  
12 discriminated against Ms. Clark because of her race in violation of A.R.S. § 41-  
13 1463(B)(1).

14 2. Enter a judgment on behalf of the State, finding that Defendants unlawfully  
15 discriminated against Ms. Clark by retaliating against her in violation of A.R.S. § 41-  
16 1464(A).

17 3. Enjoin Defendants, their successors, assigns, and all persons in active  
18 concert or participation with Defendants, from engaging in any employment practice  
19 that discriminates on the basis of sex or involves unlawful retaliation.



1           4.     Order Defendants to make Ms. Clark whole and award Ms. Clark damages  
2 in an amount to be determined at trial.

3           5.     Order the State to monitor Defendants' compliance with ACRA.

4           6.     Award the State its costs in monitoring Defendants' future compliance with  
5 ACRA.

6           7.     Order Defendants to institute and carry out policies, practices and programs  
7 which provide equal employment opportunities for all employees of Defendants, and  
8 which eradicate the effects of its present unlawful employment practices, including but  
9 not limited to policy changes and training.

10          8.     Order any affirmative relief as the Court deems necessary and proper in the  
11 public interest.

12          9.     Grant such further relief as the Court deems necessary and proper in the  
13 public interest.

14 DATED this 24<sup>th</sup> day of July 2006.

15  
16 TERRY GODDARD  
Attorney General

17 By Christopher Houk  
18 Christopher R. Houk  
Assistant Attorney General  
19 Civil Rights Division  
Attorneys for the State